

COUNT ONE CAUSE OF ACTION

On NOVEMBER 27, 1992 Plaintiff's wife placed a phone call to the 911 EMERGENCY LINE OPERATOR, seeking assistance, because Plaintiff had been drinking.

1. In response to the 911 CALL, defendants Officer Jose Torres and Officer O'Brien (uniform officers) were the first at the scene.
2. Plaintiff, in hearing the arrival of the police, approaching the door, this in response to 911 CALL placed by Plaintiff's wife, Plaintiff being afraid grabs a turkey carving knife from the kitchen, with intent to guard himself.
3. The front door was locked and dead-bolted; Plaintiff at this time was behind door in question, holding turkey carving knife by handle with sharp blade of knife pointed towards abdomen.
4. This above action, done by plaintiff with knife, due to plaintiff being afraid of what next might happen, stated repeatedly to the police, yelling clearly through this closed door: 'I HAVE A KNIFE IN MY HAND WITH THE SHARP-END UP AGAINST MY CHEST AND THE BUTT-END UP AGAINST THE DOOR, IF YOU BREAK DOWN THE DOOR, YOU'LL STAB ME.'

5. Police asked the Plaintiff's wife, where she was located, stated that she was in the bedroom doorway. Police also asked her how far away she was, she stated about 6-feet. Police also asked Plaintiff's wife, what was between her and the door. She stated an end-table and a chair.
6. Plaintiff's wife, also verified when asked, if she could open the door, stating she could not due to Plaintiff being in front of the door with knife between him and the door, with sharp end of knife pointing in to ABDOMEN.
7. The defendants, having been put on notice, by both the Plaintiff and his wife, as to it being impossible to enter through door without INJURY AND POSSIBLE DEATH TO PLAINTIFF, this NOTICE had been given from the START.
8. AT NO TIME DID PLAINTIFF POINT THIS KNIFE AT, OR THREATEN ANY HARM UPON HIS WIFE!!!
9. AND AT NO TIME DID PLAINTIFF THREATEN POLICE WITH ANY HARM, AS IS PUT FORTH IN THE POLICE REPORT marked [EXHIBIT A] dated "11/27/92".
10. Plaintiff claims that this above-mentioned police report, marked [EXHIBIT A], reported by defendant OFFICER JOSE TORRES, contains FALSE FACTS (prevarications) as to alleged statements made by Plaintiff.
11. Alleged FALSE STATEMENTS, never made by Plaintiff was written by defendant(S): "GO AHEAD YOU FUCKERS, OPEN THE DOOR AND I'LL CRACK YOUR FUCKING SKULLS," or words to that affect, AS NO OTHER PERSON HEARD PLAINTIFF STATE THESE WORDS; THEN THE ONLY TIME WAS WHEN THEY WERE WRITTEN OUT OF THE PEN OF OFF. JOSE TORRES ONTO THIS "POLICE REPORT", MARKED [EXHIBIT A.].

EXHIBIT A

WESTFIELD POLICE DEPARTMENT
15 WASHINGTON STREET
WESTFIELD, MASSACHUSETTS 01085

SUSPECT: Muller, Donald P.
33 BROAD ST., APT. 11.....
Westfield, MA.....

DATE: 11/27/92

CHARGE: Violation 209A Domestic Abuse

On this date, Officer O'Brien and I were dispatched to a disturbance at 33 Broad St. Apt. 11. The report was a female called 911 requesting help, the phone had been taken away and hung up. On arrival, I knocked on the door to apartment 11 and identified myself as a Police Officer. I told the people in the apartment I was responding to a reported domestic disturbance. I asked a male voice behind the door, later found to be Mr. Muller, to open the door. I told him I had to make sure everyone in the apartment was alright. Mr Muller started yelling abusive language, threatening to smash my head open with a pipe if I, or anyone, attempted to enter his apartment. I called out to Mrs. Muller to come and open the apartment door. Mrs. Muller called back to me she couldn't open the door because her husband was at the door with a knife and a pipe. Her voice sounded strained like she was afraid. Officer O'Brien and I attempted to force the door open, but there was a dead bolt on the door. While we were trying the door Mr. Muller was yelling "Go ahead you fuckers open the door and I'll crack your fucking skulls" or words to that affect. I radioed the station and requested more help and told them at the station Mr. Muller was now threatening to hurt himself. I was informed by Officer Samataro, the dispatcher, that Muller had called the station and left the phone off the hook and they were able to hear what Muller was saying in the apartment. Detective McCabe and Officer Coach arrived at the scene with a battering ram and Muller's apartment door was forced open. Entering the apartment I noticed a pipe next to a chair by the door. Muller was behind the door, as I entered he fell away from the door into the kitchen area, at this time he still had a knife in his hand. Officer OBrien Maced Muller, he fell on to his stomach. The officer fell from his right hand and was near his right hand. I then secured the knife. Because Muller had threatened to injure himself, I rolled him over to check him out. I noticed blood on his shirt and requested an ambulance. While attempting to give Muller First Aid by using direct pressure on his wound he became combative and was maced again by Officer O'Brien. The three of us had to restrain Muller to the Fire Dept E.M.Ts arrived. It was necessary to handcuff Muller because of the fight he was giving the E.M.Ts. While the ambulance personnel were caring for Mr. Muller I was calming Mrs. Muller who stated that the incident wasn't her fault, that her husband needed help. She was concerned with her husband's

EXHIBIT A

wound and after learning that it was only a small cut, she agreed to come to the station and give a statement. Det. Lt. Camerota came to the scene and photographed the scene. Mr. Muller was transported to Noble Hospital where he was treated and released to police custody. Mr. Muller was charged with assault with a dangerous weapon, violation of M.G.L. 209A.

While Mrs. Muller was giving her statement expressed concern about Mr. Muller getting released because she was afraid of him. She was advised about getting a restraining order, and told that Mr. Muller would be held until Tuesday, the next court session in Westfield, that she should get a restraining order at that time. I also gave her ADA Dan Shay's name and for her to contact him for assistance.

Officer Jose Torres

Jose Torres

11/27/92

12. Defendant TORRES and defendant O'BRIEN being fully aware of this knife, held by Plaintiff, pointed AGAINST HIS OWN ABDOMEN, this told to them by both the Plaintiff and Plaintiff's wife, REPEATEDLY, could not have gained entry in a proper and safe manner through the only door and still protected Plaintiff's life. [EXHIBIT U]
13. Instead, in calling for more back-up to help resolve this matter, (2) other detectives arrived AFTER COMPLETING A "drug bust" on a previous call, (Plaintiff was informed later on), the (2) detectives arrived at 33 Broad Street, Westfield, Mass., at Plaintiff's apartment.
14. Both detective Mc CABE and detective COACH, defendants, arrived at the scene with a BATTERING RAM, knowing that Plaintiff would be stabbed if they break down the door. Plaintiff at this time had a HEXAGON BAR in his left hand, pressed up against the handle of the door, and in his right hand, he was holding the knife with the butt-end against the door, and the sharp end up against his chest. He repeatedly told them of this very situation. COUNT TWO CAUSE OF ACTION
15. Defendants McCabe and Coach, did commence smashing upon the door with the BATTERING RAM. On their 3rd bang, Plaintiff dropped the HEXAGON BAR to the floor near the chair; the 4th bang forced open the door, forcing the knife into the Plaintiff's ABDOMEN, as he dropped THE KNIFE and began to fall backwards with the motion of the door; he was IMMEDIATELY SPRAYED WITH MACE AS THE OFFICERS RUSHED IN, into his EYES, FACE AND UPPER BODY UNTIL THE CAN WAS EMPTIED. Plaintiff fell backwards, hitting his head on a glass of beer on the kitchen table, then

HE FELL ON HIS BACK TO THE FLOOR, SCREAMING from the stabb wound to his ABDOMEN and the FIRST DEGREES OF FACIAL BURNS from the MACE. At this time Plaintiff heard one officer stated:

"OH SHIT! WE STABBED HIM!"

Defendants witnessing Plaintiff SCREAMING, pulled out another can of MACE and again commenced SPRAYING HIM. [EXHIBITS-V, W, X, Y, Z]

16. While Plaintiff was struggling to SEE, he witnessed in his blurred vision, an officer place the knife on the LEFT SIDE of him while he was still laying on the floor. Plaintiff was SCREAMING ALOUD FROM THE PAINS OF THE STABBING AND THE PAINS FROM BEING MACED, While Plaintiff was lying on his back on the floor, then defendants police officers took pictures of Plaintiff on the floor. COUNT THREE CAUSE OF ACTION
17. Plaintiff was thereafter dragged by the defendants out of the apartment and into the hallway. Plaintiff recalls seeing one of the defendants, (a bald headed) defendant, APPLIED EXCESSIVE FORCE UPON PLAINTIFF, BY FORCING HIS HAND OVER PLAINTIFF'S MOUTH AND NOSE, WHILE FORCING PLAINTIFF'S HEAD HARD TO THE FLOOR: SIMULTANEOUSLY SMOTHERING PLAINTIFF, TRYING TO STOP PLAINTIFF FROM SCREAMING IN AGONY FROM HIS PAINS FROM THE STAB-WOUND AND BEING MACED!!
18. Emergency Medical Team (E.M.T.s) arrived and placed the Plaintiff on a scoop-stretcher, then he was secured to the stretcher and taken to the hospital by the ambulance vehicle.

35.

BEDROOM

ANN (Plaintiff's
Wife)

LIVING ROOM

HEXAGON BAR

PLAINTIFF
MULLER

KNIFE

Police
Officers,

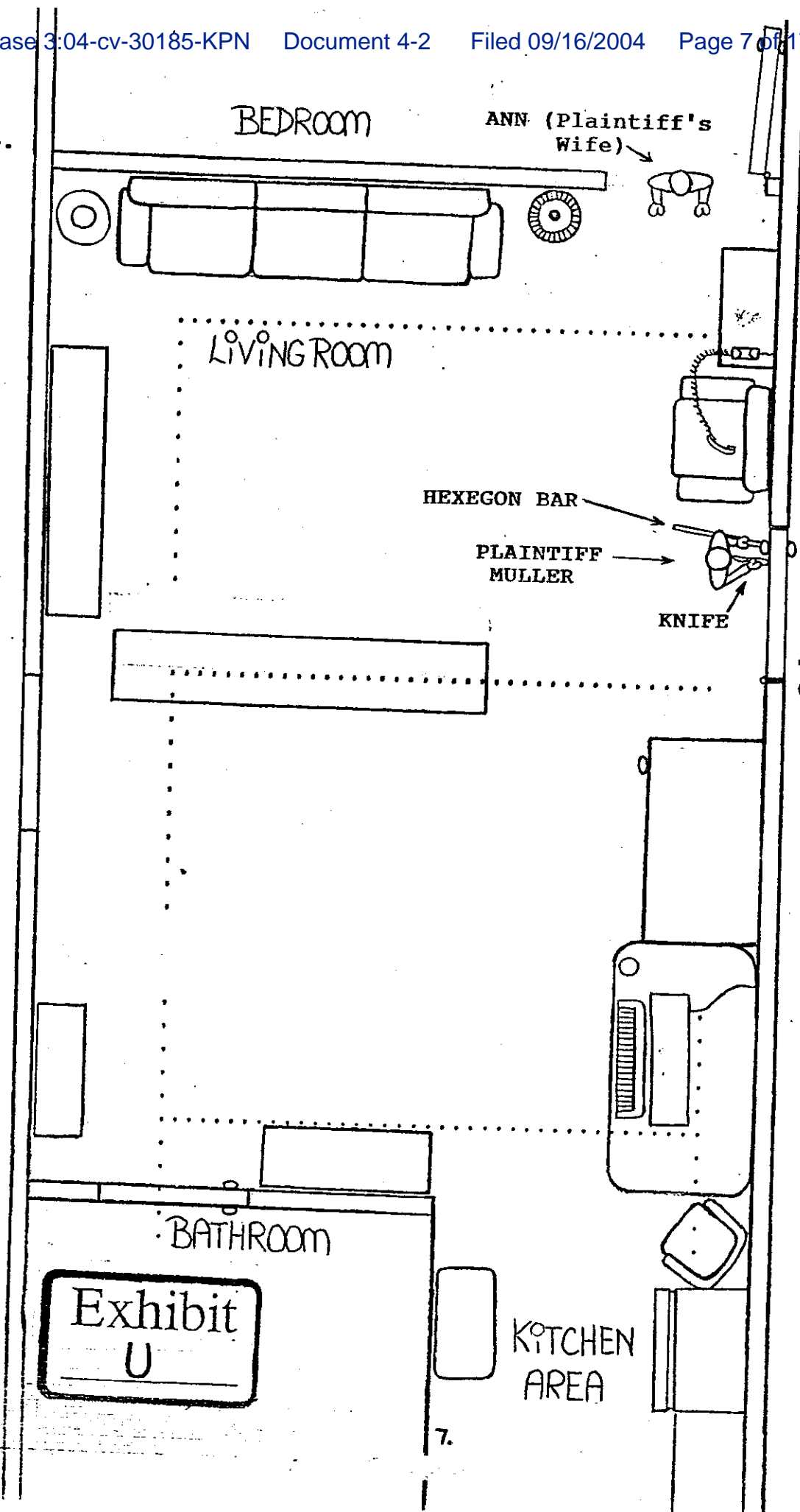
TORRES &
O'BRIEN

BATHROOM

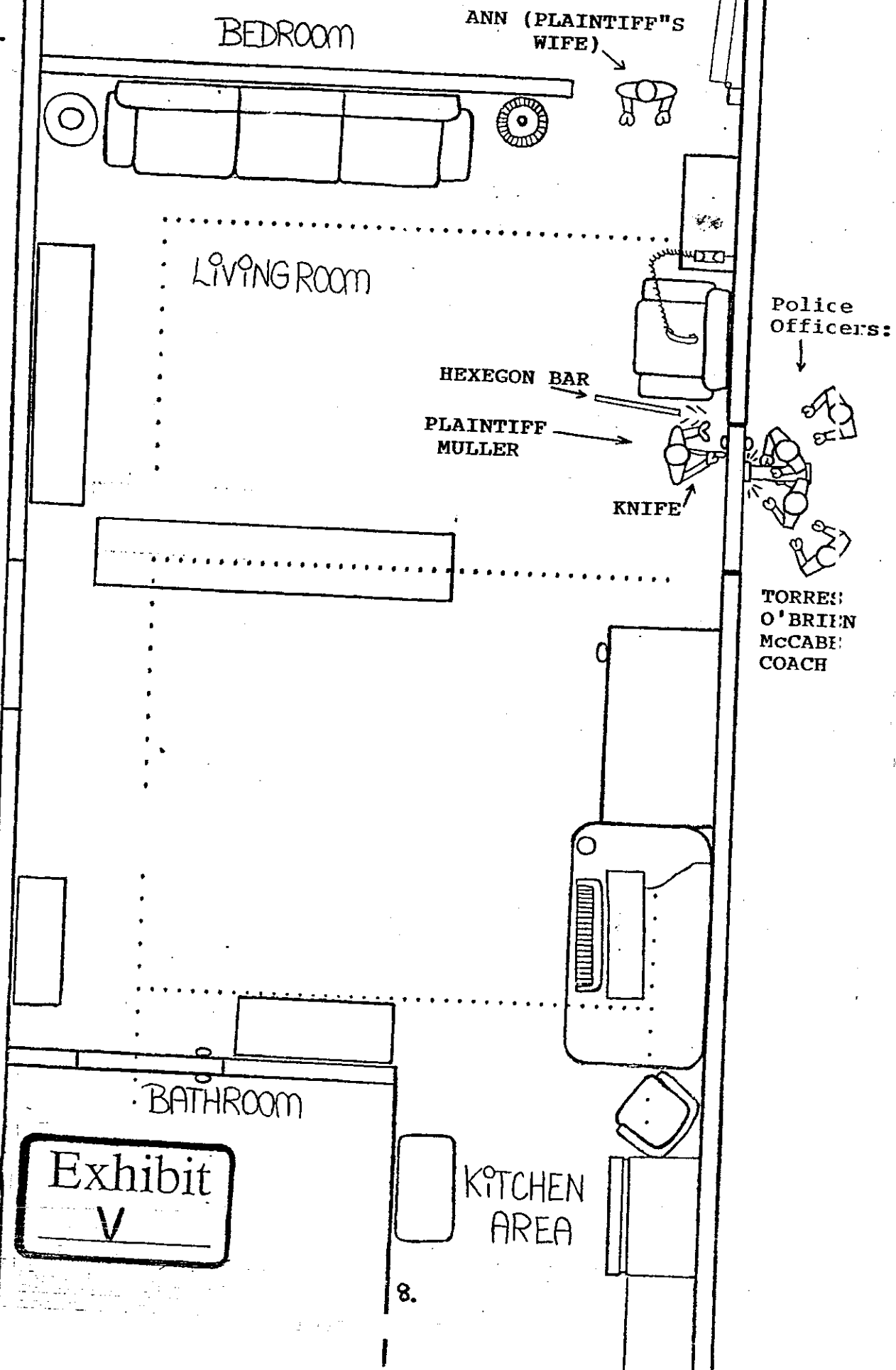
Exhibit
U

KITCHEN
AREA

7.

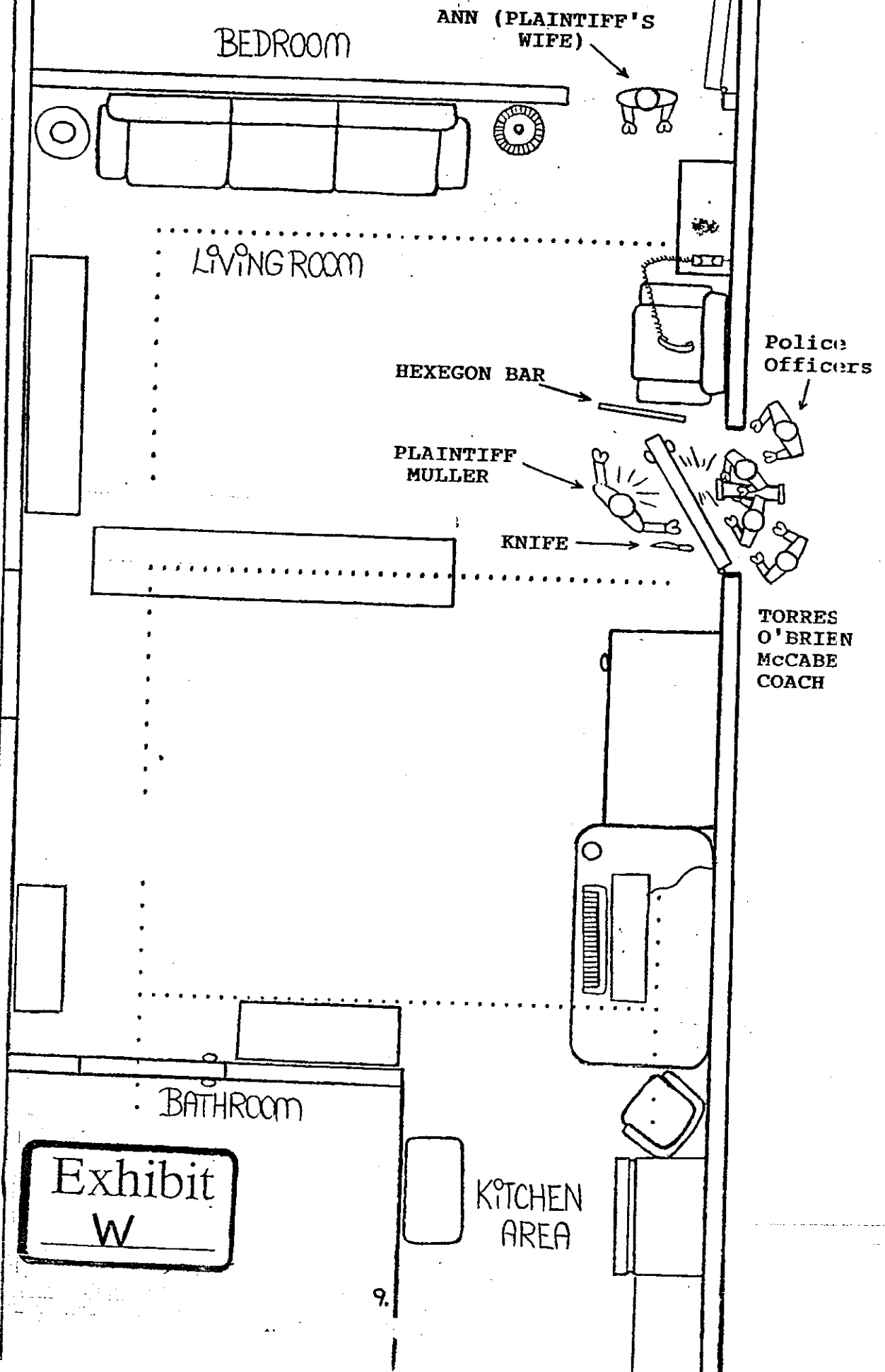


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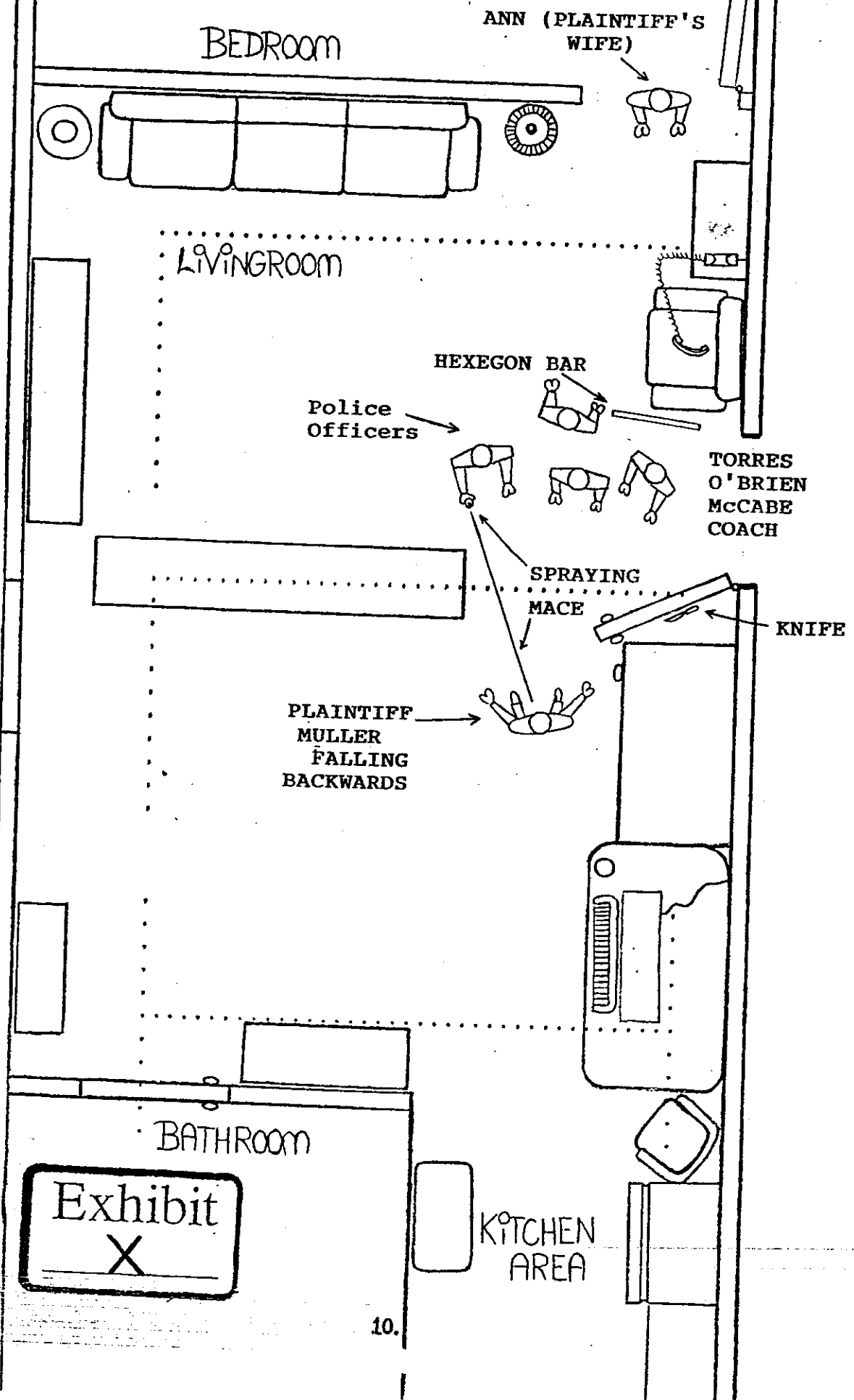


8.

37.

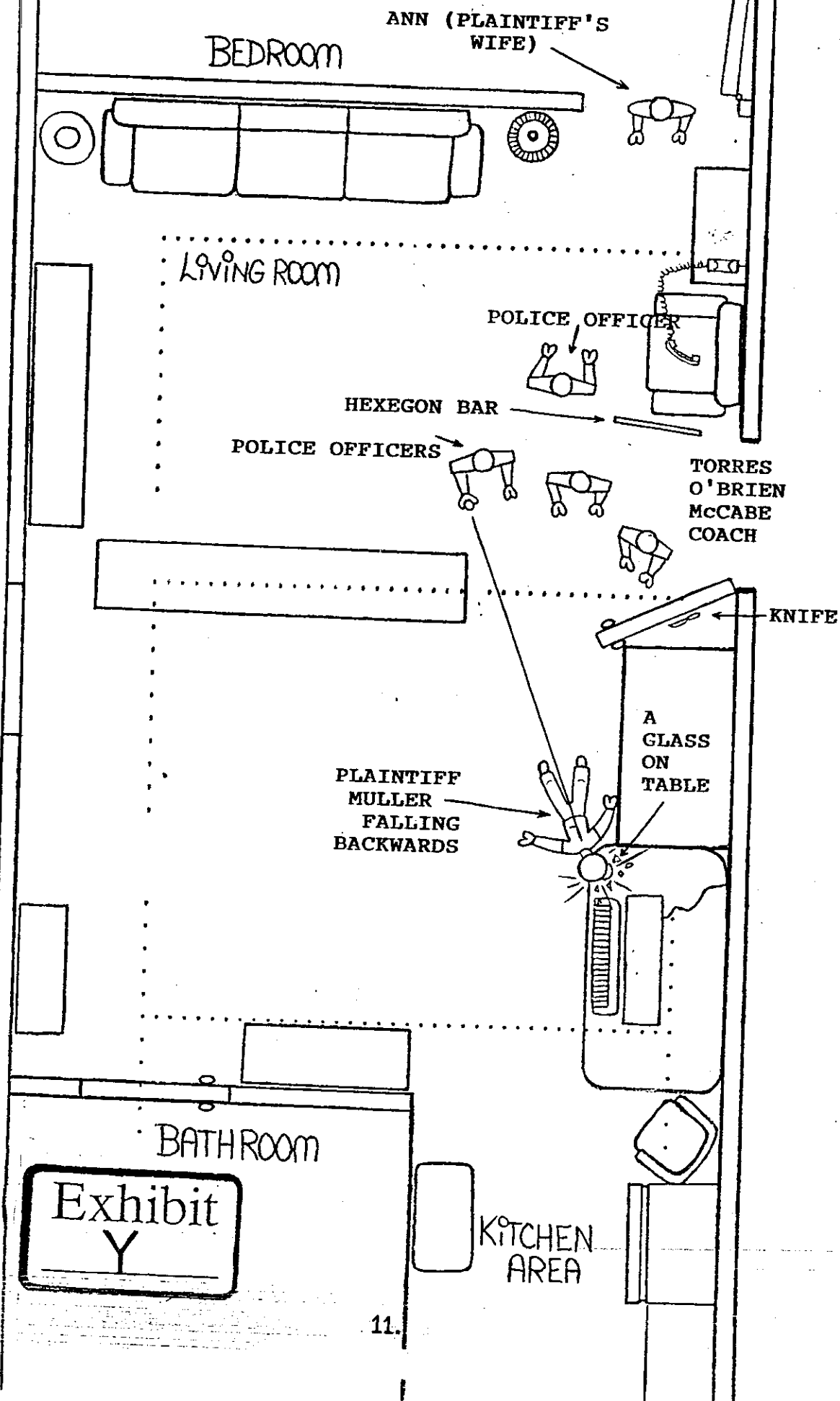


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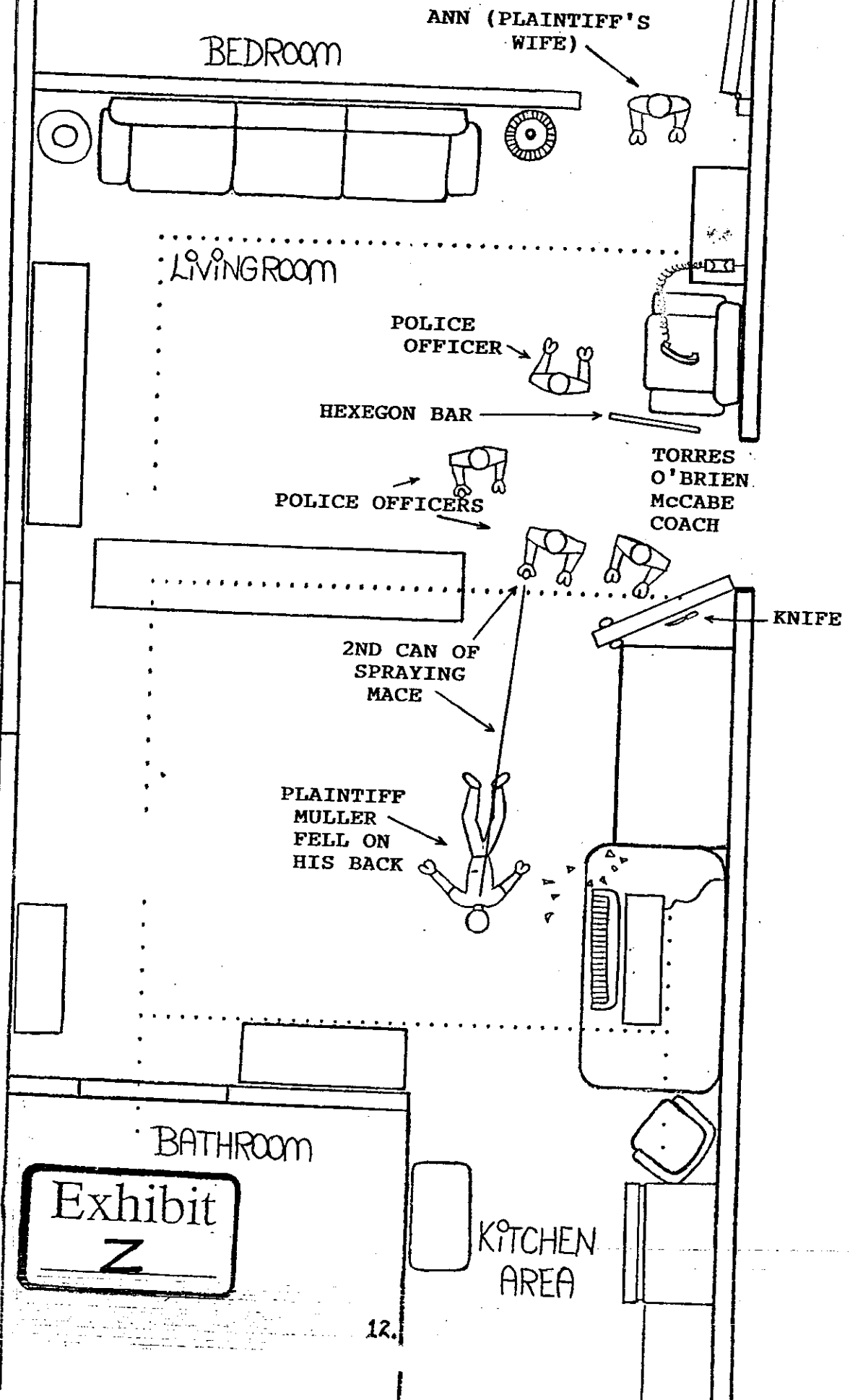
10.

39.



11.

40.



COUNT FOUR CAUSE OF ACTION

19. At NOBLE HOSPITAL, Plaintiff was given cold-packs applied to his face; he was treated with (5) SUTURES to ABDOMEN-KNIFE WOUND with DRESSING APPLIED TO ABDOMEN: SUPERFICIAL LASCERATION NOTED APPROXIMATELY (1-INCH) BACK OF HEAD--BLEEDING CONTROLLED.. Plaintiff was also diagnosed with FIRST DEGREE FACIAL BURNS, as a result to being MACE by the defendants POLICE OFFICERS.

20. Defendants police officers intentionally MADE FALSE STATEMENTS to Nurse JASRULSKI, TELLING HER:

"REPORTED THAT P T. THREATENED TO KILL HIS WIFE AND ALSO HAD A-GUN- KNIFE (error) in his MOUTH TO KILL HIMSELF."

PLAINTIFF NEVER threatened to kill himself, nor anyone else, as defendants police officers performed SUBORDINATION TO PERJURY, in the scheme to violate Plaintiff's Federal Constitution Rights by having NURSE JASRULSKI falsify the Clinical Records Documents. [EXHIBIT H.]

21. The acts of the defendants NOBLE HOSPITAL, JAMES D. ANDERSON, M.D. contributed to the FURTHERANCE OF THE ONGOING CONSPIRACY AGAINST PLAINTIFF MULLER, by writing FALSE STATEMENTS OF WHAT PLAINTIFF ALLEGEDLY SAID: ALLEGED FALSE STATEMENTS WERE::

"STATED TO HAVE BEEN SPRAYED IN THE FACE WITH MACE BY HIS WIFE. STATED THAT HE CUT HIS OWNSELF WITH A KNIFE ON THE ABDOMEN. ALSO DIAGNOSIS...SELF-INFLICTED 4 cm. LACERATION OF THE LEFT ABDOMEN INTO FAT."

[EXHIBIT I.]
Plaintiff VIGOROUSLY DENYS ALL STATEMENTS HEREINABOVE CLAIMING that he was MACE (D) by his WIFE, or that he inflicted upon himself the WOUNDS he suffered being a victim of POLICE BRUTALITY AND ATTEMPT TO MURDER HIM BY SMASHING HIM WITH THE BATTERING RAM UPON THE DOOR.

EXHIBIT H
noble
hospital
 People Caring for People

 115 West Silver Street
 P.O. Box 870
 Westfield, Mass. 01086-0870

Donald Muller.

CLINICAL RECORD

EMERGENCY DEPARTMENT PATIENT

LTD: 5 YRS ago.

 CBC. Etoh. Type / Hct
 98^b - 100. - 20 148/80 NKA.

DATE	DISCIPLINE CHARTING	TIME	
11/27/92		2210.	<p>Wounds: none</p> <p>Wounds: none Stated? collapsed</p> <p>Surge</p> <p>Pt brought in via WFD p being called due to a self inflicted abd wound. Pt has been drinking states "just gave me a shot and let me die." Pt is in police custody.</p> <p>Strong odor Etoh on breath, yelling, shouting obscenities at staff. Superf. lacerations approx 1" back of head - bleeding controlled. Face red - flom "maci" per pt. Also patch approx 2" lac (L) abd. bleeding controlled. Resp 24. No Resp distress noted.</p> <p>A. Act in seen intup / Pot for infx. 20 abd laceration.</p> <p>P. To be seen by Oold TRC #2.</p> <p>T. NS - Hsg applied to abd wound. Exam by Dr Anderson - Labs drawn.</p> <p>Pt is in 4pt. Restrained due to threats to self and staff. Pt is under arrest - police officer & pt.</p> <p>Coke - face. CONFIDENTIAL</p> <p>Reported that pt threatened to kill his mother and father.</p> <p>had a</p>



115 West Silver Street
P.O. Box 870
Westfield, Mass. 01085-0870

EXHIBIT H

Donald Mullen
30315549

CLINICAL RECORD
EMERGENCY DEPARTMENT PATIENT

Tid updates

DATE	DISCIPLINE CHARTING	TIME	REMARKS
11/27/92			mouth to knee himself - * St screaming at staff "my fuckin face burns" "do something, my fuckin face is burning". 2235 X-ray done. — Z. Jaskieski (R) 2240 Dr. Lagac called will be in to see pt. 2250 Dr. Lagac in to see pt. 5 sutures → abd wound - area cleaned & batidine - bacitracin oint applied. To follow w/ Dr. Lagac in 1 week. Z. Jaskieski (R). Report given to on coming shift. 2330 E- discharged to go with Police - pt is under arrest - at anytime if pt requests crisis, the team members will be called follow up with Dr. Lagac as planned.

CONFIDENTIAL

NOT TO BE REPRODUCED WITHOUT
WRITTEN CONSENT BY PATIENT OR

CONFIDENTIAL

**NOT TO BE REPRODUCED WITHOUT
WRITTEN CONSENT BY PATIENT OR
EMPOWERED REPRESENTATIVE**



NOBLE HOSPITAL

115 W. Silver Street
P.O. Box 1634
Westfield, MA
01086-1634

PATIENT: MULLER, DONALD P
MED. REC. #: 084611
ACCOUNT #: 30315549
DATE: 11/27/92

EMERGENCY ROOM REPORT

EXHIBIT I

* HISTORY: A 31-year-old male brought by ambulance handcuffed and four point restraints on. Scoop stretcher. Stated to have been sprayed in the face with Mace by his wife. Stated that he cut his own self with a knife on the abdomen. Complaining of burning of his face. Apparently he has had no tetanus immunization for several years.

EXAM: His vital signs are stable and normal. There is mild erythema of his face. Lungs clear to auscultation. Heart regular rhythm, no murmurs. Chest negative. Abdomen is soft. No organomegaly or masses. No guarding or rebound. Bowel sounds active and normal throughout. There is a 4 cm. laceration in the left upper quadrant, into fat but not suspected to be into peritoneum by this examiner. There is also a very small laceration on the occipital scalp not requiring a suture. No other sign of injuries.

TREATMENT: Cold packs applied to face. Dressing applied to the abdomen. Patient given DT 0.5 cc. IM. Cross table portable lateral x-ray of abdomen shows no obvious free air in the abdomen. Shows the abdominal soft tissue laceration not extending to the peritoneum. Reading is by this examiner. The patient is referred to Dr. Lagac, the surgeon on call, who came, evaluated the patient, left small laceration of scalp open, closed the abdominal wound. Dressing was applied. The patient is then discharged in police custody under arrest. If over the next few days while he is in police custody he requests or states any suicidal ideation he will be seen by crisis. If necessary he will be returned to the Emergency Room for such evaluation.

* DIAGNOSIS: SELF-INFLICTED 4 CM. LACERATION OF THE LEFT ABDOMEN INTO FAT.
SMALL LACERATION OF SCALP.
FIRST DEGREE FACIAL BURN FROM MACE.

CODE 3 (X-RAY)

JAMES D ANDERSON, MD

JA/HM

DD: 11/27/92

DT: 12/04/92

CC: 4

CONFIDENTIAL

ARREST - CUSTODY REPORT

☒ ARREST BOOKING REPORT
☐ PROTECTIVE CUSTODY REPORT

NAME (LAST, FIRST, MIDDLE)

Muller, Donald P

☐ ALIAS☐ MAIDEN NAME

RESIDENCE ADDRESS: NO. STREET

33 Broad St. Apt 11

TEL. NO.

562-4966

CITY, STATE

WFLD

COMPLEXION

WFLD

EYES

BRO

HAIR

BRO

WEIGHT

160

HEIGHT

5'8"

RACE

W

SEX

M

BUILD

M20

PECULIARITIES - SCARS, MARKS, TATTOOS, CLOTHING

M20

DATE OF BIRTH

06/10/61

PLACE OF BIRTH

HOLYOKE

SOCIAL SECURITY #

010-02-3550

OTHER DESCRIPTIVE INFORMATION

OPER. LIC. # & STATE

MOTHER'S MAIDEN NAME

Cee (Charlotte)

FATHER'S NAME

John

EMPLOYER/SCHOOL

—

LOCATION OR ADDRESS

—

☒ Married
☐ Single
☐ Separated
☐ Divorced

SPOUSE'S NAME (MAIDEN)

Ann

TEL. NO: (If different)

—

I have been advised of my rights to remain silent,
 to use a phone, to call a lawyer or have one provided
 & to have my own physician test for alcohol.

Sign:

THE ABOVE RIGHTS ADVISED BY:

0

DATE & TIME

PHONE USED

☒ YES ☐ NO

PERSONAL VALUABLES

Sweaters, Belt, Comb

CASH

\$ 180.00

THE ABOVE LIST IS MY PROPERTY

Sign:

I HAVE RECEIVED THE ABOVE PROPERTY

Sign:

SEARCHED BY

COMPLAINANT

RELATION

REPORTING OFFICER

PH. J. Torres

ASSTG OFF.

—

BAIL COMMISSIONER

Freddie

BAIL

000

DATE & TIME

—

RELATION

—

COMPLAINANT

—

BAIL COMMISSIONER

Freddie

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